

Cross - MacLaughlin

1 A Not that I recall.

2 Q And so you asked the Randolph police to conduct the search
3 of the, of the house?

4 A Did I ask them to do that? No, I didn't ask them to do
5 that.

6 Q So they just did it on their own?

7 A Yes.

8 Q Did they have anything to do with this investigation?

9 A Just that part at the Randolph end.

10 Q The Randolph--

11 A Let me correct myself on that. He asked, Hammelburg
12 called me and asked me did I want him to get a consent search,
13 that's what it was, and I said, yes, if you can do it fine, and
14 then he told me that Darren had been there the night before and
15 that's, that, yes, I did ask him to do that.

16 Q He told you that Darren, Mr. Franklin had been at, at his
17 parent's house the night before?

18 A That's what he said, yes.

19 Q Had they been, had they, had there been a surveillance on
20 that house?

21 A There has been a surveillance on that house, yes.

22 Q For, for how long?

23 A For several months actually.

24 MR. SHAPIRO: I have no further questions.

25 THE COURT: Anything further Mr. Hamilton?

Argument
MR. HAMILTON: Nothing, your, nothing your Honor.

THE COURT: Thank you. You may step down.

(Witness excused)

THE COURT: Any further witnesses?

MR. HAMILTON: Nothing from the government, your Honor.

THE COURT: Mr. Shapiro, does the defendant intend to present any evidence?

MR. SHAPIRO: No, he does not.

THE COURT: All right. When you take your pencil out of your mouth, I'll hear you, Mr. Hamilton on the question of detention.

MR. HAMILTON: Thank you, your Honor.

The defendant, as your Honor knows, the defendant has a lengthy history. I, I can't begin to summarize the, I guess, eight pages of criminal history summary that you've already received except to say that there are at least three or four prior convictions that count, that qualify Mr. Franklin as a career offender in this court. They are both crimes of violence as well as distribution or conspiracy to distribute convictions both in the state district court as well as in state superior court. In addition, your Honor, the government has filed in this case a section 851 information citing some of those prior drug convictions, which further enhances the sentences the defendant is facing.

B

Surveillance Worksheet

Operation Name..... Operation Trifecta
 CC #.....
 Case #.....
 OT Hours.....
 Subject(s).....
 Biographical Information.....
 Location..... 159 Pine Grove Drive
 Date..... 04/15/2004
 Time..... 10:45 PM
 Officers Present..... Detective Fratalia
 Notes taken by..... same

Surveillance Summary..... The following report is a summary of the surveillance conducted at 159 Pine Grove Drive, the arrest of Darren Franklin and the subsequent consent search conducted at 159 Pine Grove Drive, Brockton, Ma. This report is based upon information received and observations made.

On 04/15/04 at about 10:45 PM, Detective Robert Fratalia assisted TFSA George McLaughlin and DEA Special Agent Mike Cashman in conducting a surveillance at 159 Pine Grove Drive in Brockton, Ma. Detective Fratalia took up an observation post which allowed him to observe Darren Franklin's motor vehicle and window believed to belong to Darren Franklin's apartment. Further, Detective Fratalia was able to see the set of stairs leading up to the courtyard of 159 Pine Grove Drive. Detective Fratalia had conducted surveillance in the area of 159 Pine Grove Drive on prior occasions and was familiar with the area.

At about 11:30 PM, Detective Fratalia observed a white colored mid size sedan arrive on scene and parked at the bottom of the steps leading up to 159 Pine Grove Drive. Detective Fratalia observed a light to a second floor apartment turn off and a short time later observed a black male walk down the steps from the courtyard area of 159 Pine Grove Drive. This black male was wearing a dark colored jacket, dark colored pants and had a build similar to that of Darren Franklin. Detective Fratalia was unable to make an identification of this individual at this time due to the poor lighting conditions, the rainy weather and the position of his advantage point. This unknown black male entered the front passenger side of the white sedan and the sedan started to exit the complex heading in the direction of Reservoir Road. Detective Fratalia alerted TFSA McLaughlin and DEA Agent Cashman of this activity and informed them that the motor vehicle was exiting the complex. Further Detective Fratalia relayed that the white colored sedan did not appear to have any rims on the tires.

A moment later TFSA McLaughlin relayed that he had the white colored sedan in sight and stated that this car had a Massachusetts registration number of 98 TX 30. TFSA McLaughlin relayed that he could not identify who the front seated passenger was as this individual had been sitting in a reclined position. TFSA McLaughlin and SA Cashman followed this motor vehicle for a short period of time but were unable to continue surveillance due to the motor vehicle traffic in the area.

About twenty minutes to one half hour later, the white colored sedan returned to the courtyard next to 159 Pine Grove Drive. Detective Fratalia observed the front passenger exit this motor vehicle and walk up the stair in the direction of 159 Pine Grove Drive. This individual was dressed the same as the individual Detective Fratalia had observed enter this motor vehicle about a half hour prior. Detective Fratalia believed that it was the same person (possibly Darren Franklin) returning home. The white sedan remained in the courtyard of Pine Grove Drive for about another twenty minutes and was observed speaking with a couple of unknown persons who were in the courtyard. Detective

Fratallia observed this motor vehicle exit the Pine Estate Complex and did not return.

On 04/15/04 at about 1:25 AM, Detective Fratallia observed a black male having a large frame very similar in size and shape to Darren Franklin walk down the steps from the courtyard of 159 Pine Grove Drive. This unknown individual was observed to carrying a light colored shopping bag in his left hand. Detective Fratallia observed this individual walk over to the area where Darren Franklin's blue Ford Taurus was parked. This individual walked to the rear of Darren Franklin's motor vehicle and then opened the trunk. This individual, (believed to be Darren Franklin) placed the light colored shopping bag into the trunk of this car and then closed the trunk. This individual then opened the front driver's side door of Darren Franklin's car and entered the motor vehicle. The motor vehicle was started as if this individual was in the process of driving away. The car's headlights illuminated for a brief moment and the car moved slightly forward. The driver then shut off the lights and remained in the car for a short period of time. It was unknown at this point if the car was still running or not. After a couple minutes, the driver exited the car, and walked back to the same location where he had originally come from. Detective Fratallia was unable to make a positive identification of this individual due to the weather conditions (raining) and due to his observation post. This individual appeared to have the same physical characteristics (height, weight, frame size) as Darren Franklin.

Later in the evening (early morning / exact time but sometime after 1:25 AM), a tow truck was observed entering Pine Grove Drive with a motor vehicle in tow. The tow truck had a loud engine and had its amber lights flashing overhead. This tow truck stopped next to the area where Darren Franklin's car had been parked. While the tow truck was stopped, Detective Fratallia observed an individual come to the a second floor apartment window and pull aside the shade. This window was believed to be the target's (Darren Franklin's) apartment. This apartment window was located on the second floor and was either four or five windows down from the end of the building. The individual in the window appeared to be watching the actions of the tow truck driver. After the tow truck had exited the parking lot area, the individual in the second floor window remained there for another minute or so and then released the window treatment. Detective Fratallia could not make an identification of this individual who was in the window as it had been raining out and Detective Fratallia had been parked approximately 100 yards away from the target building.

On 04/15/04 at about 5:30 AM, Darren Franklin was taken into custody at 159 Pine Grove Drive, Brockton, Ma. by members of the Metro Star Entry and Apprehension Team refer to Boston Police Incident Report # 040187985. Present inside of 150 Pine Grove Drive at the time of Darren Franklin's arrest was Fania Hemingway 01/16/78 and her two children Kearmen 07/12/96 and Gianni 07/30/98.

At the time of his arrest, Darren Franklin was observed dropping a light blue colored plastic bag to the ground as he exited 159 Pine Grove Drive. Upon examination of this plastic bag it was learned that it contained a large assortment of ammunition. Fearing that there might be firearms to coincide with the ammunition found in the plastic bag, Detective Fratallia and TFSA McLaughlin questioned Fania Hemingway about the possibility of firearms being present inside of her home and expressed their safety concerns for her young children being at home. Detective Fratallia and TFSA McLaughlin asked Fania Hemingway if she would grant consent to these officers and allow them to conduct a search of her residence.

At about 5:40 AM, Detective Fratallia advised Fania Hemingway of her Miranda Rights and read them to her from a Boston Police Miranda Warning Form. At about 5:50 AM, Fania Hemingway signed DEA Consent to Search Form for 159 Pine Grove Drive, Brockton, Ma. Both of these documents were signed Fania Hemingway and Detective Robert Fratallia.

Detective Fratallia conducted an interview of Fania Hemingway who relayed the following information:

Fania Hemingway stated that she has been living at 159 Pine Grove Drive, Brockton, Ma. since February 2002 along with her two children Kearmen B/M 07/12/96 and Gianni B/F 07/30/98. Fania Hemingway stated that her home telephone number was (508) 588-4605 and stated that she was

currently unemployed.

Fania Hemingway stated that Darren Franklin was her boyfriend and stated that he stays at her house approximately four to five nights a week. She stated that Darren Franklin was unemployed and suspected him of making money illegally.

Darren Franklin drives a blue colored Ford Taurus which is parked out by the dumpster. Earlier in the evening, Fania Hemingway stated that she observed two plastic bags on the living room floor located at the top of stairway leading into her unit. Fania Hemingway stated that she never looked into these two plastic bags and did not know the contents of them. Fania Hemingway stated that earlier in the night, Darren Franklin placed one of the two plastic bags into his car and the other the plastic bag he took out with him when the police called him to come outside. One of the plastic bags contained a Nike shoe box in it and she believed that this was the plastic bag that Darren Franklin had told her that he was putting into his car.

Fania stated that earlier in the evening, Darren Franklin had left her house telling her that he was going over to his sister's house. Fania stated that Darren had been gone about twenty minutes and then returned to her home.

At about 6:10 AM, Detective Fratalia and TFSA McLaughlin began to search 159 Pine Grove Drive and were later joined by DEA SA Mike Cashman who assisted in the search. At about 6:55 AM, the search of 159 Pine Grove Drive had been completed and officers left this location secure with Fania Hemingway. Refer to Boston Police Incident Report # 040187989 for a list of items seized as a result of this search.

DATA SECTION

C





Cross - MacLaughlin

56

1 Q The weights that you've given, are those gross or net
2 weights?

3 A Net.

4 Q And so, where did that information come from?

5 A Somebody, somebody weighed them. I think it was Special
6 Agent Cashman and Sergeant Tom Grenham processed the drugs and
7 they weighed them and wrote on the envelopes what the weight
8 is.

9 Q So they removed the drugs from the packaging material?

10 A No, they were still in the, they're still in the plastic
11 bags that they were in.

12 Q So when you, that, that weight includes the weight of the
13 material, the packaging material?

14 A Of the little plastic bags, yes, it does.

15 Q Now did you go to the apartment, the home of
16 Mr. Franklin's parents?

17 A No, I did not.

18 Q Do you know who did?

19 A Yes.

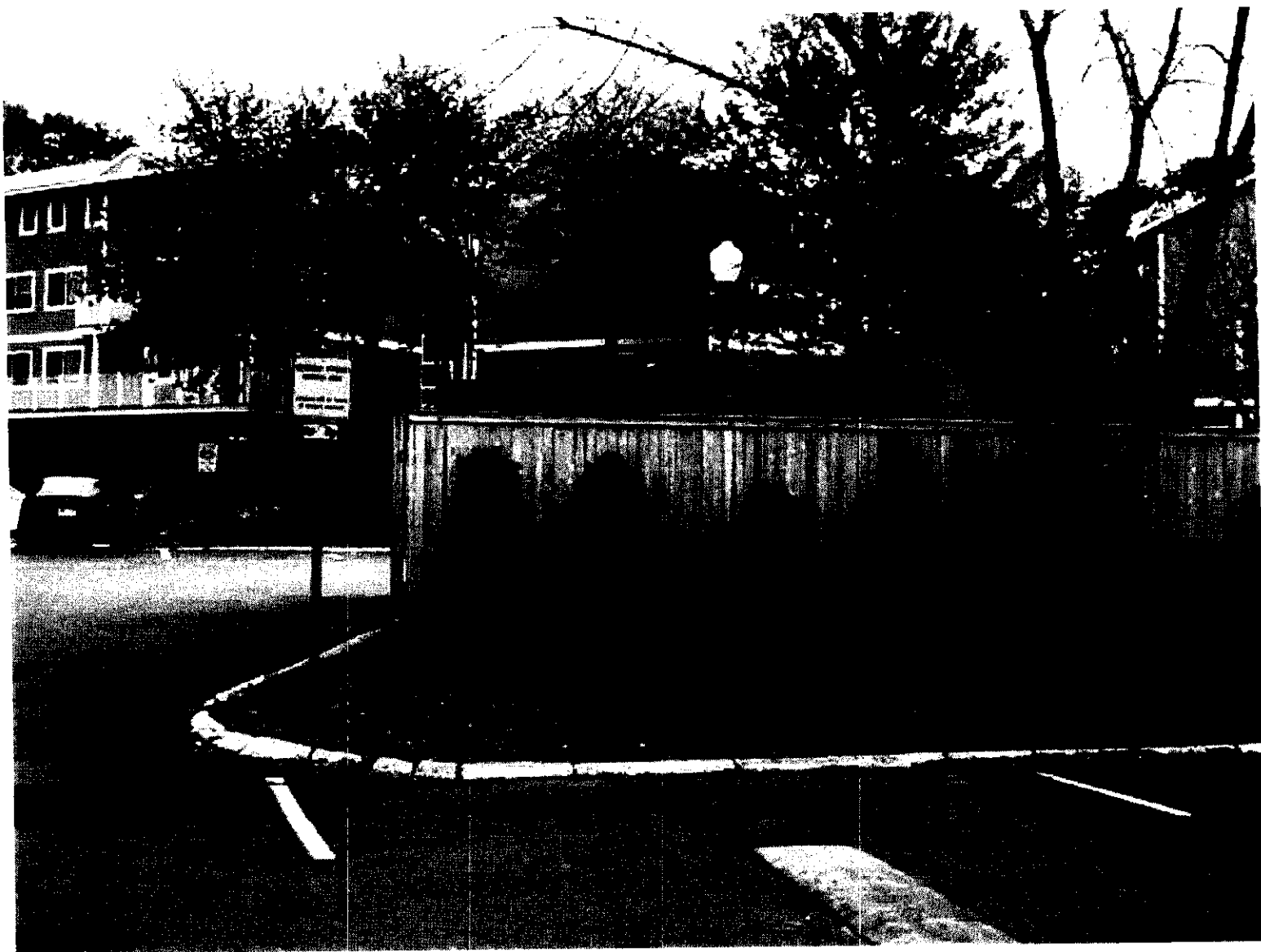
20 Q Who?

21 A That would be Lieutenant John Hammelburg from the Randolph
22 police and Lieutenant Arthur Sullivan from the Randolph,
23 Randolph police and other people whose names I don't have right
24 now.

25 Q Anybody from the task force?







D

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REPORT OF INVESTIGATION

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1. Program Code	2. Cross File	Related Files	3. File No. [REDACTED]	4. G-DEP Identifier [REDACTED]
5. By: S/A Michael P. Cashman At Boston, MA.	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		6. File Title [REDACTED]	
7. <input type="checkbox"/> Closed <input type="checkbox"/> Requested Action Completed <input type="checkbox"/> Action Requested By:			8. Date Prepared 04/20/2004	
9. Other Officers: TFA MacLaughlin, METRO STAR SWAT TEAM led by PO Chris Baker, MSP et al and Det. Joseph Cummings of the Brockton Police Department.				
10. Report Re: 04-15-2004 arrest of Darrin FRANKLIN and seizure of Exhibits 52, 53, 54 and N-116 to N-124.				

SYNOPSIS

On April 14th, and 15th, 2004, Drug Enforcement Administration Task Force I, Boston Police Department Youth Violence Strike Force (YVSF), and the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) arrested 21 individuals subsequent to federal and state arrests warrants.

DETAILS

- As a result of an eleven month investigation by DEA Task Force I and the Boston Police Youth Violence Strike Force (YVSF) seventeen (17) Federal indictments, six (6) Suffolk County Superior Court indictments, one (1) Roxbury District Court arrest warrant, and one (1) Roxbury Juvenile Court arrest warrant were issued. All of the defendants were distributing crack in and around the Warren Gardens housing development in the Roxbury section of Boston, MA.
- Members of Task Force Group 1, Boston PD, Metro Star Swat Team, MA State Police and Brockton Police went to 159 Pine Grove Drive, Brockton, Ma. to arrest Darrin FRANKLIN.
- On 4/14/2004 at approximately 10:23 PM, TFA MacLaughlin and S/A Cashman observed FRANKLIN's Blue Taurus bearing MA REG 95RT05 parked on Pine Drive.

11. Distribution: Division sari District Intelligence Other	12. Signature (Agent) S/A Michael P. Cashman	13. Date 5/24/04
	14. Approved (Name and Title) Michael J. Barbuti Group Supervisor	15. Date 5/31/04

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MPC

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4. At approximately 11:29 PM, Det. Fratalia observed a white 1993 Toyota Camry bearing MA REG 70TC06 registered to Nadege FENELON, 71 Winthrop St., Brockton MA arrive outside FRANKLIN'S apartment. A black male fitting FRANKLIN'S description exited the apartment and entered the vehicle and it departed the location. S/A Cashman and TFA MacLaughlin attempted to follow the vehicle but lost it. At approximately 11:45 PM, Boston Police Detective Robert Fratalia observed the white Toyota return. The same black male fitting FRANKLIN'S description exited the vehicle and went up the stairs toward the HEMINGWAY/FRANKLIN apartment. The white Toyota stayed motionless for several minutes, the driver appeared to have passing conversation with one or two unknown individuals, then it drove out of the area.
5. At approximately 1:25 AM, Det. Fratalia observed the same black male whom he believed to be Darrin FRANKLIN, come down the steps adjacent to the HEMINGAWAY/FRANKLIN apartment carrying a light colored bag. FRANKLIN walked to the trunk of his blue Taurus and opened the trunk and placed a light colored shopping type bag into the trunk. FRANKLIN then got into the car, turned the lights on and then off, and then exited his car and went back to his residence. Det. Fratalia observed unidentified individuals looking out the window of the apartment.
6. At approximately 5:20 AM, the Metro Star SWAT team called out FRANKLIN from his apartment. FRANKLIN exited his residence carrying a blue plastic bag, a cellular telephone and a set of keys. He was ordered to put those items on the ground and he was taken into custody. Fearing for his safety and the safety of others, Swat officer Timothy Cahoon looked into the open bag and observed several boxes of Winchester ammunition inside.
7. In the presence of S/A Cashman, TFA MacLaughlin gave FRANKLIN his rights per Miranda. FRANKLIN said he understood. At approximately 5:33 AM, TFA MacLaughlin and S/A Cashman told FRANKLIN that he was observed carrying out a light colored shopping type bag and putting it in the trunk of his car. TFA MacLaughlin and S/A Cashman asked for consent to search the vehicle. FRANKLIN stated that the car was in his mother's name, but he was on the insurance and that he was the driver of the vehicle. S/A Cashman asked FRANKLIN what was in the bag. FRANKLIN said that there was

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a "little weed" in the bag, and upon request, gave consent to search the vehicle, he said in essence, ya, go do what you got to do. S/A Cashman asked him why he placed the "weed" in the trunk. FRANKLIN stated that he received a call from someone who said that "his people were disappearing off the street". FRANKLIN said he knew that the cops were coming and that's why he put the Marijuana in the trunk, and that is why he brought out the blue bag containing the bullets out of the residence so his girlfriend would not get in trouble. FRANKLIN also told S/A Cashman that a few days before, he observed what he perceived to be law enforcement officer conducting surveillance on him. He said he saw a cop in a car wearing sunglasses parked behind him on Pine Drive. TFA MacLaughlin asked FRANKLIN where he went when he went out in the white Toyota. FRANKLIN said in essence, we just went to the store.

8. S/A Cashman and TFA MacLaughlin searched the vehicle and found a light colored plastic bag containing a tan paper bag, a tan and red Nike shoebox, and a blue plastic Gillette bag. The blue Gillette bag contained Exhibit #52, which consists of approximately 66 grams of suspected crack cocaine, and Exhibit #53, which consists of 91 grams of suspected Marijuana. S/A Cashman took photos (N-114) of these Exhibits, which were found in the trunk of the vehicle. Exhibit N-122 consists of a Nike shoebox and the Blue Gillette bag.
9. Boston PD YVSF Detective Robert Fratalia obtained permission from Fania HEMINGWAY, FRANKLIN's paramour, to conduct a consent search of the HEMINGWAY/FRANKLIN residence. Fania HEMINGWAY signed a DEA 88, consent to search form, (Exhibit N-123). When TFA MacLaughlin asked FRANKLIN for permission to search the HEMINGWAY/FRANKLIN apartment FRANKLIN gave an affirmative response, he said, in essence, ya, go ahead, do your thing, do what you got to do. During the search TFA MacLaughlin found a large capacity extended pistol magazine (N-120), and one forty caliber pistol bullet (N-121). The large capacity pistol magazine and the bullet were found inside an open safe. The safe was hidden under the bed behind a piece of plywood. Both items were seized by TFA MacLaughlin who turned them over to S/A Cashman. S/A Cashman turned the Exhibits over to ATF Agent Tony Thurman. TFA MacLaughlin took photos of the pistol magazine and the bullet. Those photos are included in Exhibit N-114.

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10. On Thursday, April 15, 2004 at approximately 6:10 am, Lt. John Hamelburg and Det. Lt. Arthur Sullivan and ATF Agents Angelo Thurman and Matthew O'Shaunessey in furthering Operation Tri-fecta, responded to 370 Chestnut West in Randolph, MA. This residence was identified from this investigation and others as being a residence of Darren FRANKLIN and the home of his mother Emily FRANKLIN and her spouse, Preston McNeil. Lt. Hamelburg, Det. Lt. Sullivan, Agents Thurman, and O'Shaunessey were invited into the residence by Preston McNeil who was approached by one of the Metro Star containment officers outside of the residence.
11. Lt. Hamelburg was familiar with Mr. McNeil from a prior investigation. Upon entry into this residence, Lt. Hamelburg introduced himself to Emily FRANKLIN whom he had met in the past. Once informing Mrs. FRANKLIN of Darren's arrest, she allowed the above mentioned officers to search the residence for any other people. As the conversation continued, Lt. Hamelburg asked Mrs. FRANKLIN for consent to search the residence. Mrs. FRANKLIN initially denied this request. Once informing Mrs. FRANKLIN of the magnitude of the investigation into her son's illicit drug activity and the possibility of obtaining, but not necessarily being allowed a search warrant, Mrs. FRANKLIN stated that she would consent (Exhibit #124) to a search of her apartment.
12. Mrs. FRANKLIN advised Lt. Hamelburg that Darren no longer lives at her home and that he and his girlfriend live in Brockton. Mrs. FRANKLIN stated that Darren, at one time, was on the lease of her apartment but no longer was. Mrs. FRANKLIN identified Darren's room as being the small bedroom located on the West side of the apartment facing the front parking lot. Mrs. FRANKLIN identified this room as containing some of Darren's clothes and other personal effects. As stated by Mrs. FRANKLIN, Darren no longer lives at the residence, in fact, the room that was once his bedroom no longer contained a bed. This room had no locking device and both Mrs. FRANKLIN and Preston McNeil had free access to this room. When the above mentioned officers were allowed to search this room for other occupants the door was in the open position.
13. Prior to searching the apartment, with Mrs. FRANKLIN's consent, Lt. Hamelburg provided her with a Randolph PD Permission to Search Form (Exhibit #N-124). Once Mrs. FRANKLIN took possession of this form, Lt. Hamelburg requested that she print her name on the first blank line of

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this document. When this was completed by Mrs. FRANKLIN, Lt. Hamelburg read the form to her verbatim, word for word to her making sure that she understood each and every word and sentence. Mrs. FRANKLIN was also advised that she had the lawful right to refuse to consent to the search of her apartment. After reviewing this document, Mrs. FRANKLIN voluntarily and without any threats or promises of any kind, signed the consent form allowing the above officers to search her residence without a search warrant. This document was also signed by Preston McNeil. Along with their signatures, Det. Lt. Sullivan and Lt. Hamelburg signed this form which was dated April 15, at 6:23 am.

14. The search, of which was once Darren FRANKLIN's bedroom, produced a Sentry combination lock fire safe, which was found by S/A Angelo Thurman along the west wall of the room. This safe was found to be locked. In the closet of this bedroom, Det. Lt. Sullivan located a plastic bag containing a white powdery substance, which Lt. Hamelburg believed, from his training and experience, to be cocaine. This was located in an old fashioned clock radio that housed a jewelry compartment. Also in this closet, Det. Lt. Sullivan located a plastic bag containing several individually wrapped pieces of a rock-like substance that Lt. Hamelburg believed, from his training and experience, to be crack cocaine. This item was found in a pocket of a blue Chicago White Sox jacket. The gross weight of the cocaine and crack cocaine (exhibit #54) was later found to be 22 grams.

15. S/A O'Shaunessey located two boxes of Winchester Ammunition. One box of .357 caliber and the other .38 special caliber. This ammunition was found within a stereo cabinet along the south wall of the one bedroom. On top of this stereo cabinet, S/A O'Shaunessey located an open box of plastic sandwich bags. Also recovered were a number of letters and personal papers belonging to Darren FRANKLIN. All of the evidence and contraband recovered from 370 Chestnut West was recovered from the one time bedroom of Darren FRANKLIN.

16. Once the search of the residence was completed, Lt. Hamelburg showed both Emily FRANKLIN and Preston McNeil the evidence recovered. Once viewing this evidence, Mrs. FRANKLIN signed the inventory list of the items recovered from her son's old bedroom. When asked when Darren was

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last at the home, Mr. McNeil stated the previous day (April 14, 2004) at approximately 3:30 p.m. Mr. McNeil stated that Darren was only at the residence a short period of time picking up mail and some other items from his room. When asked, Lt. Hamelburg was informed that the only people (other than themselves) that accessed Darren's room was Darren and his girlfriend who once lived there.

17. The evidence recovered from the FRANKLIN home was transported to the Randolph Police Station. Once at the police station, the Sentry Safe was opened by S/A O'Shaunessey and Lt. Hamelburg. Located in the safe was a .45 caliber Glock semi-automatic pistol containing a fully charged magazine, another fully charged .45 caliber magazine, and two boxes of .45 caliber Winchester ammunition. The Glock pistol possessed the serial number CDL562. A LEAPS query revealed that this pistol was reported stolen to the Leominster MA Police Department on October 29, 2000. The drug evidence (cocaine and crack) was transferred to the custody of S/A Michael Cashman of the DEA. A receipt was filled out and retained by the Randolph Police Department indicating same. The firearm and ammunition was transferred to the custody of S/A Thurman of ATF. A receipt was filled out and retained by the Randolph Police Department. All other evidence was inventoried by the Randolph Police Department.

CUSTODY OF DRUG EVIDENCE

1. On 4-15-04 S/A Cashman and TFA MacLaughlin conducted a consent search on a 1996 Blue Ford Taurus, MA Reg. 95RT05, located on Pine Grove Drive, Brockton, MA. Exhibits 52 and 53 were located in the trunk of the vehicle. S/A Cashman seized the Exhibits and transported the Exhibits back to the NEFD. At the NEFD, S/A Cashman and TFA Sgt. Grenham processed the Exhibits and secured them in the overnight drug depository. At a later date, the Exhibits were mailed to the Northeast Regional Lab, RRRMRR, for analysis and safekeeping.
2. On 4-15-04, Lt. John Hamelburg and Lt. Arthur Sullivan conducted a consent search at 370 Chestnut St., #33K, West Randolph, MA. Exhibit 54, which consists of approximately 22 grams of cocaine and crack cocaine. This exhibit was recovered from a closet in the FRANKLIN bedroom. Exhibit 54 was transferred by Lt. Hamelburg to S/A Cashman at the Randolph PD on

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